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Report of the Secretary-General pursuant to Security Council resolution 1820

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1820 (2008), in which the Council requested me to submit a progress report on implementation of resolution 1820 (2008), including information on, inter alia, situations of armed conflict in which sexual violence has been widely or systematically employed against civilians; analysis of the prevalence and trends of sexual violence in situations of armed conflict; proposals for strategies to minimize the susceptibility of women and girls to such violence; benchmarks for measuring progress in preventing and addressing sexual violence; information on my plans to facilitate the collection of timely, objective, accurate and reliable information on the use of sexual violence in situations of armed conflict; and information on actions taken by parties to armed conflict to implement their obligations as described in resolution 1820.

2. Following the adoption of the resolution, I entrusted the Department of Peacekeeping Operations, in close coordination with all relevant stakeholders, to undertake appropriate follow-up, including the preparation of the present report. To this end, the Department of Peacekeeping Operations established a coordination group at Headquarters, led by a senior focal point, with the participation of all departments, specialized agencies, funds and programmes concerned, including those represented in UN Action against Sexual Violence in Conflict (UN Action).[1] At the country level, senior-level mission focal points were designated to ensure consolidated inputs from relevant peacekeeping and political mission components, the United Nations country team, and implementing partners. The present report is thus the result of extensive consultations and submissions from headquarters and country-level. It has also been informed by the insights of Member States, non-governmental organizations, legal experts and researchers.

[1] UN Action is comprised of the Department of Political Affairs, the Department of Peacekeeping Operations, the Office for the Coordination of Humanitarian Affairs, the Office of the United Nations High Commissioner for Human Rights, Joint United Nations Programme on HIV/AIDS, the United Nations Development Programme, the United Nations Population Fund, the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the United Nations Development Fund for Women, the World Food Programme and the World Health Organization.

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3. In accordance with resolution 1820 (2008), the present report is confined to the implementation of the resolution in the context of situations that are on the agenda of the Council. These situations are not limited to what can at present be described as armed conflict situations. However, the resolution is essentially concerned with sexual violence against civilians during and in the aftermath of armed conflicts and with related issues; the approach in this report is generally similarly focussed. It should also be noted that sexual violence occurs in armed conflicts around the world that are not on the Council's agenda. While the information in this report is limited to the last two decades, sexual violence has been used against civilians, particularly women and girls, in many conflicts throughout history. The main focus of the report is on peace and security and justice matters relating to sexual violence. It is informed by the definitions of rape and other forms of sexual violence under international criminal law.[2] Most of the inputs that were received from the country level refer to definitions that are contained in national law. It is also guided by the meaning of "widespread" and "systematic" as reflected in international jurisprudence in relation to crimes against humanity.[3]

4. The request in resolution 1820 (2008) for analysis of the prevalence and trends of sexual violence in situations of armed conflict must be considered in the light of the complexities of gathering comprehensive information on sexual violence, even in the best of conditions. Sexual violence is deeply dehumanizing, inflicts intense mental and physical trauma, and is often accompanied by fear, shame and stigma.

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[2] These definitions — ranging from rape to sexual slavery and inhumane acts and torture — can be found in the statutes and jurisprudence of, for example, the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR), and the Special Court for Sierra Leone (SCSL). They are also reflected in the law of the International Criminal Court (ICC). The "Elements of Crimes of the ICC" defines rape as "the perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent". Sexual violence is defined as "the perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent".

[3] In the case-law of ICTY, ICTR and SCSL, "widespread" refers to the large-scale nature of the attack and the number of victims, while "systematic" refers to the organized nature of the acts of violence and the improbability of their random occurrence. Patterns of crimes are a common expression of such systematic occurrence. Except for extermination, a crime need not be carried out against a multiplicity of victims in order to constitute a crime against humanity. Thus, an act directed against a limited number of victims, or even against a single victim, can constitute a crime against humanity, provided it forms part of a widespread or systematic attack against a civilian population. The law requires a widespread or systematic attack directed against a civilian population, although in reality such attacks often are both widespread and systematic. In general, crimes against humanity can be committed in times of peace also. Review of Sexual Violence Elements of the Judgments of ICTY, ICTR and SCSL in the light of Security Council resolution 1820 (2008), Department of Peacekeeping Operations, 13 April 2009.

It is a well-established method of torture.[4] For these reasons and particularly in the absence of protection or services, victims do not easily disclose their experiences and there is gross under-reporting of cases.[5] In conflict situations, efforts to document sexual violence are further complicated by chaotic circumstances and population movements, safety concerns, and a breakdown or lack of systems to collect and report information. To ascertain prevalence, population-based surveys would need to be conducted and these are difficult to undertake in conflict settings. However, any lack of comprehensive information should not preclude efforts to prevent and respond to sexual violence. Information from other sources such as police and human rights reports, case report statistics from organizations providing services to survivors, and courts, including international courts, can provide valuable, if partial, insights into a given situation.

II. Framing sexual violence in armed conflict and its aftermath

5. Under international law, States are obligated to refrain from violating human rights, and must take positive steps to prevent sexual violence, protect individuals from such violence, punish perpetrators, and provide remedy to victims. In armed conflict situations, all parties to the conflict, including State agents, bear primary responsibility to protect civilians in accordance with international humanitarian and human rights law. Grave breaches of international humanitarian law can constitute war crimes, which are often accompanied by other serious crimes under international law, such as crimes against humanity and genocide.

6. Conflict environments, characterized by a breakdown in the rule of law and a prevailing climate of impunity, create the conditions whereby parties, State and non-State alike, emboldened by their weapons, power and status, essentially enjoy free reign to inflict sexual violence, with far-reaching implications for efforts to consolidate peace and secure development. In a number of contemporary conflicts, sexual violence has taken on particularly brutal dimensions, sometimes as a means of pursuing military, political, social and economic objectives, perpetrated mainly against civilians in direct violation of international humanitarian, human rights and criminal law. In fact, for the first time in 1994, in the circumstances of the case, the International Criminal Tribunal for Rwanda (ICTR) qualified the crime of rape as a form of genocide. In so doing, ICTR recognized that sexual violence was a step in the process of group destruction — the "destruction of the spirit, of the will to live, and of life itself".[6] While women and girls are particular targets and are the majority of the victims of sexual violence, the case-law of the International Criminal Tribunal

[4] See, for example, General Assembly resolution 63/155; A/HRC/7/3; and the Istanbul Protocol, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations, 1999.

[5] The use of the term "victim" rather than "survivor" in this report is intended to reflect the harm that persons — individually or collectively — endure through sexual violence, and their rights to be treated with humanity and with dignity and respect for their human rights, and their right to remedies; see also General Assembly resolution 60/147.

[6] The *Prosecutor v. Jean-Paul Akaseyu*, ICTR-96-4-T (www.ictr.org).

for the Former Yugoslavia (ICTY) and the Special Court for Sierra Leone (SCSL) also bears testimony to the use of sexual violence against men.[7]

7. Sexual violence can prolong conflict by creating a cycle of attack and counter-attack, especially when it is perpetrated on discriminatory grounds of, inter alia, race and religion. It fuels insecurity and fear, which are among the main causes of displacement, internally and across borders. It is a form of discrimination that inhibits and restricts the ability of women to exercise their rights on the basis of equality with men,[8] and to fully and effectively participate in conflict resolution and peacebuilding processes. When sexual violence is a feature of armed conflicts, there is often a corresponding increase in the incidence of rape and other forms of sexual violence among civilians.

8. Although further study is warranted to establish the causal connections between conflict and post-conflict sexual violence, all countries that are transitioning to peace from conflicts in which sexual violence was a defining feature indicate that rape and other forms of sexual violence are rife and major factors undermining early recovery and peacebuilding.

III. Use of sexual violence in recent and ongoing armed conflict situations and in their aftermath

9. The information in this section illustrates instances in recent and ongoing conflicts where sexual violence has been used or commissioned to deliberately attack civilians and communities, including by targeting women and girls, on a widespread and/or systematic basis. Although this is by no means an exhaustive account, it sheds light on the nature and pattern of violations, and the identity/affiliation and intent of their perpetrators. In analysing the information, commonalities emerge and demonstrate that history repeats itself and trends persist over time. The majority of past abuses remain to be accounted for and require continued efforts to ensure that perpetrators are duly prosecuted and all victims have access to remedy and reparations for the harm they suffered. For the reasons outlined in paragraph 4 above, the information on ongoing violations in this section is neither comprehensive nor conclusive and deserves further investigation.

10. In a third of the completed cases of ICTY, sexual violence was found to be part of a widespread and/or systematic attack directed against civilians during the various armed conflicts that accompanied the break-up of the former Yugoslavia. In 9 of the 13 completed cases of ICTR, sexual violence was found to be directed against civilian populations, with ICTR confirming that "it is well known that rape and other forms of sexual violence were widespread in Rwanda during the events of 1994".[9] The jurisprudence of the Special Court for Sierra Leone also shows that sexual violence was committed on a widespread or systematic basis against the

[7] For example, in the conflict in the former Yugoslavia, men were forced by their captors to perform sexual acts, including oral sex, in front of other people, and to perform sexual acts on co-detainees, and were severely sexually assaulted; see Review of the Sexual Violence Elements of the Judgments of the ICTY/ICTR/SCSL in the light of Security Council resolution 1820 (2008), Department of Peacekeeping Operations, 13 April 2009.

[8] General Recommendation No. 19 adopted by the Committee on the Elimination of Discrimination against Women (1992).

[9] See *Prosecutor v. Baeosora, Kabiligi, Ntabakuze, Nsengiyumva*, ICTR-98-41-T (www.ictr.org).

civilian population.[10] In many instances, the sexual violence was particularly brutal, both mentally and physically, and often was accompanied by other heinous crimes.[11]

11. This deliberate targeting of civilians continues in ongoing conflicts. In the Sudan, a 2005 commission of inquiry authorized by Security Council resolution 1564 (2004) "established that the Government of the Sudan and the Janjaweed [...] conducted indiscriminate attacks, including killings of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement throughout Darfur".[12] These findings were confirmed and supplemented by a 2007 High-level Mission, which noted that "rape and sexual violence are widespread and systematic".[13] Over the last three years, civilians have continued to report patterns of rape and gang rapes during attacks on their villages, in most instances by armed militias. In neighbouring eastern Chad, it has been reported that sexual violence has increased alarmingly during the past five years, with repeated cross-border incursions of Janjaweed militias from the Sudan, the presence of Chadian rebel groups occasionally clashing with Government forces, and intercommunal fighting of local militias.

12. In eastern Democratic Republic of the Congo, at least 200,000 cases of sexual violence have been recorded since open hostilities began in 1996.[14] However, owing to gross under-reporting of cases and the fact that some victims do not survive to tell their stories, this figure is considered to be a conservative estimate of the actual total number of cases. In March 2009, I informed the Council that sexual violence continued unabated in the Democratic Republic of the Congo. I noted that following the joint Armed Forces of the Democratic Republic of the Congo (FARDC)-Rwanda Defence Forces (RDF) operation against the Forces démocratiques de libération du Rwanda (FDLR) in North Kivu in January 2009, FDLR elements conducted reprisals against local civilian populations. I stressed that members of the security forces, in particular FARDC and the Congolese National Police (PNC), were also responsible for a large number of serious human rights violations, including rape.[15] In parts of South Kivu as well MONUC has registered reports that militia commit sexual violence while looting villages near military encampments and attack women as they gather firewood, food or water. In some areas, male family members leave their families and homes to avoid forced recruitment by the Congres national pour la defense du peuple (CNDP), thereby increasing the vulnerability of women to sexual violence.

13. A noticeable feature of attacks on civilians is the accompanying abduction, enforced prostitution and enslavement of victims. In the Sierra Leone conflict, women and girls were abducted and forced to "marry" combatants. These "bush wives" were then subjected to rape and other forms of sexual violence. Currently in the Democratic Republic of the Congo, for example, reports indicate that FARDC is

[10] The former Yugoslavia, Rwanda and Sierra Leone, and the wider central and west African regions remain on the agenda of the Security Council.

[11] Review of the Sexual Violence Elements of the Judgments of the ICTY/ICTR/SCSL in light of Security Council resolution 1820 (2008), Department of Peacekeeping Operations, 13 April 2009.

[12] See S/2005/60.

[13] Report of the High-level Mission on the situation of human rights in Darfur pursuant to Human Rights Council decision S-4/101 (A/HRC/4/80).

[14] UNICEF Democratic Republic of the Congo.

[15] See S/2009/160.

engaging in enforced prostitution of young girls and is taking young female students as "wives" through a pattern of establishing bases near schools. Further, groups such as FDLR and Lord's Resistance Army (LRA) are abducting women and girls into the forests to be used as sex slaves. FDLR and Mayi-Mayi are abducting women and girls who are then assigned to a soldier as a "wife". Other groups such as the Allied Democratic Forces (ADF) and the National Army for the Liberation of Uganda (NALU) is also carrying out a pattern of abduction and forced marriage, sometimes of girls as young as 12.

14. The perpetrators of sexual violence in recent and ongoing conflicts include members of State armed forces and the police, along with militias and other non-State armed groups. In many cases, civilian and military leaders at the highest echelons of State structures are accused of commissioning or condoning such violence. At ICTR, ICTY and SCSL, several accused were charged on the basis of their superior responsibility in relation to sexual violence committed against civilians by their subordinates. In the Sudan, recent charges against two senior government officials and an alleged Janjaweed leader include counts of attacks against the civilian population, including the crime of rape.[16] To date, reports continue that sexual violence is being committed by members of the Sudanese armed forces and rebel movements, as well as armed groups and opposing communities during clashes. In the Democratic Republic of the Congo, all parties to the conflict, including State agents (FARDC and PNC as well as ex-militia integrated into these structures) and the various non-State armed groups (ADF-NALU, CNDP, FDLR, LRA and Mayi-Mayi) are perpetrating sexual violence. In both North and South Kivu, as well as in Equateur, Kasai Occidental and Kasai Oriental, Bandundu and Kinshasa Provinces, an increase in the incidence of sexual violence by civilians has been observed. In eastern Chad, cases of rape and gang rapes committed by officers and soldiers of the Armée Nationale Tchadienne (ANT) have been documented. In Nepal, in the Tarai region, an estimated 15 to 20 armed groups are reportedly participating in violent activities, including sexual violence against women and girls. In Côte d'Ivoire, elevated levels of sexual violence continue to persist particularly in the western and northern parts of the country, where armed groups, former combatants and militias are mostly concentrated, and in the former zone of confidence.

15. Sexual violence is often perpetrated on proscribed discriminatory grounds of, inter alia, race, sex, religion, political or other opinion, and national or social origin. In the former Yugoslavia, sexual violence formed a part of, and flowed from, the ethnic cleansing of areas coveted by parties to the conflict. In Rwanda, crimes, including acts of sexual violence, were committed in large part against the Tutsi group. In Afghanistan, it is alleged that during the civil war that took place in Kabul from 1992 to 1995, "every mujahidin group fighting inside Kabul committed rape with the specific purpose of punishing entire communities for their perceived support for rival militias. Thus rape, as well as other targeted attacks on civilians, was ethnically based" and "in many cases, it was used as a means of ethnic

[16] *The Prosecutor v. Ahmad Muhammad Harun and Ali Muhammad Ali Abd-Al-Rahman*, ICC-02/05-01/07, and *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, ICC-02/05-01/09.

cleansing".[17] In the Democratic Republic of the Congo, evidence suggests that in the aftermath of an indiscriminate attack on the village of Bogoro on or around 24 February 2003, members of the Front des nationalistes et intégrationnistes (FNI) and the Forces de résistance patriotique en Ituri (FRPI) committed criminal acts, including sexual enslavement of civilian women and girls primarily of Hema ethnicity.[18] More recently in the Sudan, rape and other forms of sexual violence were found to be deliberately and indiscriminately directed against a majority of victims from the so-called "African" tribes.[19] In Myanmar, recent concern has been expressed at discrimination against the minority Muslim population of Northern Rakhine State and their vulnerability to sexual violence, as well as the high prevalence of sexual violence perpetrated against rural women from the Shan, Mon, Karen, Palaung and Chin ethnic groups by members of the armed forces and at the apparent impunity of the perpetrators.[20] In Iraq, it has been reported in the media that rape is used in order to persuade victims to become suicide bombers as their only escape from shame in a culture that links "honour" with the modesty/chastity of women.

16. Further, sexual violence is sometimes committed to, inter alia, terrorize and punish and as a form of reprisal. In Sierra Leone, combatants of the then government, the Armed Forces Revolutionary Council (AFRC) directed attacks against the civilian population "aimed broadly at quelling opposition to the regime and punishing civilians suspected of supporting the Civil Defence Forces (CDF)/Kamajors".[21] Both AFRC and the Revolutionary United Front (RUF) extended their power and dominance over the civilian population by perpetuating a constant threat of insecurity, including through the use of sexual violence.[21] In the period between 2004 and 2006, when Haiti faced renewed political instability, it is reported that sexual violence was used by gangs to maintain territorial control, intimidate the local population, and control the social behaviour of women and girls. Today in the Democratic Republic of the Congo, for example, both in North and South Kivu, militias have targeted women and used brutal sexual violence as reprisals for military operations against them.

IV. Responsibility of States and other parties in relation to sexual violence in conflict and its aftermath

17. All contributions to this report from the country level consistently cite three factors as contributing to and exacerbating sexual violence. These are inadequate measures to: (a) prevent sexual violence and protect civilians; (b) combat impunity for sexual violence; and (c) address continuing discrimination against women and girls, in law and practice. In addition, access to assistance and remedy by victims is

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[17] The Afghan Independent Human Rights Commission, established under article 6 of the Bonn Agreement and supported in its work by the Office of the United Nations High Commissioner for Human Rights, has pointed to the report *Casting Shadows: War Crimes and Crimes against Humanity: 1978-2000*, released in 2005 by the Afghanistan Justice Project.

[18] *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, ICC-01/04-01/07.

[19] See S/2005/60.

[20] Committee on the Elimination of Discrimination against Women, forty-second session, CEDAW/C/MMR/CO/3.

[21] Special Court for Sierra Leone, *Prosecutor v. Sesay, Kallon and Ghao*, SCSL-04-15 (www.sc-sl.org).

inadequate. In this regard, I am outlining some areas that warrant a renewed commitment of States and other parties to conflict to redress with urgency. I would urge the Council to view concrete actions and results in these areas against its request in resolution 1820 (2008) for benchmarks in measuring progress in preventing and responding to sexual violence.

Prevention and protection

18. A core aspect of prevention is the need for civilian and military leaders to demonstrate commitment and political willingness to address sexual violence. Inaction essentially sends a message that sexual violence is tolerated. In this regard, I emphasize that clear and forceful instructions and regular messages on the categorical prohibition of sexual violence, and unequivocal demonstrations by word and deed that any breach will be punished, would contribute to a decrease in sexual violence. Additionally, State organs, including ministries of defence, interior and justice, and military and police command structures must institute concrete, time-bound measures, including training of military and police forces to make them aware of their obligations under international humanitarian, human rights and criminal law. In this regard, I would like to draw attention to, for example, the related provisions of the Geneva Conventions of 1949, in particular article 144.[22] Moreover, State and non-State parties must ensure that all reports of sexual violence committed by civilians or military personnel are thoroughly investigated and the alleged perpetrators punished with a view to securing accountability. As noted earlier, in armed conflicts, sexual violence is committed both by State and non-State parties. In accordance with the principle of superior responsibility, which forms part of customary international law, I urge State and non-State parties to armed conflicts to ensure that civilian superiors and military commanders use their authority and powers to prevent sexual violence and punish crimes committed by subordinates, failing which they themselves must be punished.

19. A further aspect of prevention is the need for States to take concerted actions to address entrenched inequalities and de jure and de facto discrimination against women and girls. The linkages, in particular, the impact of armed conflict on women and girls, have been addressed in the context of the implementation of Security Council resolution 1325 (2000) and the related annual report of the Secretary-General to the Security Council. In addition, in 2002, a study of the Secretary-General on women, peace and security, coordinated by the Special Adviser of the Secretary-General on Gender Issues and Advancement of Women, reaffirmed that "where cultures of violence and discrimination against women and girls exist prior to conflict, they will be exacerbated during conflict. If women do not participate in the decision-making structures of a society, they are unlikely to become involved in

[22] Article 144 of the universally ratified Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 provides: "The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population. Any civilian, military, police or other authorities, who in time of war assume responsibilities in respect of protected persons, must possess the text of the Convention and be specially instructed as to its provisions"; see also obligations of States under articles 146 and 147 of the same Convention.

decisions about the conflict or peace process that follows".[23] In many countries around the world, sexual violence continues to be deeply entrenched in inequalities and discrimination against women, and patriarchal structures. In addition, violence against women committed in the name of culture or tradition persists.[24] This is contributing to double victimization, first for having been sexually violated and second for having to bear the fear, shame and stigma that surrounds sexual violence, and to a culture of silence that essentially impedes victims' access to justice and remedy, and allows impunity to persist. Sexual violence impacts on the full range of civil, cultural, economic, political and social rights of victims, including their rights to education and livelihoods and freedom of movement. For example, in Iraq, due to fear of sexual violence, women are reportedly staying at home and keeping their children from going to school. Girls are more often kept at home than boys. In Myanmar, women and girls are fearful of working in the fields or travelling unaccompanied, given regular military checkpoints where they are often subject to sexual harassment.[25]

20. In the light of this, I would urge States to ratify and implement the core international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women, and to remove reservations to this latter treaty. Further, States are encouraged to develop enhanced policies and strategies for local ownership and implementation of resolutions 1325 (2000) and 1820 (2008) with the objective of empowering women, including refugee and IDP returnee women, to become more effective partners in addressing discriminatory practices and improving their status in society. In addition, a very tangible step that States can take is to ensure that the minimum political commitment of at least 30 per cent representation of women in decision-making, and participation in conflict resolution and peacebuilding processes, is achieved.

21. As regards the protection of civilians from sexual violence, I informed the Council in my last report on the protection of civilians in armed conflict that the need to strengthen the protection of civilians stems from the fundamental failure of parties to conflict to fully comply with their legal obligations to do so.[26] In this regard, few reports have been received of actions being taken by the parties to armed conflict to comply with their obligations to refrain from committing sexual violence. In the Democratic Republic of the Congo, statements of commitments (actes d'engagement) were signed by 22 armed groups in the Kivus during the Goma Peace Conference on 23 January 2008. Signatories committed themselves to, inter alia, end all acts of violence against the civilian population, especially women and children. The Nairobi communiqué, which focussed on foreign armed groups in the Democratic Republic of the Congo, also contained a reference to preventing acts of sexual violence. However, significant progress is yet to be observed in the parties either honouring their commitments or protecting civilians, in particular from sexual violence. In Côte d'Ivoire, the Forces nouvelles adopted an action plan in January 2009, in which they committed to combating sexual violence in areas under their

[23] *Women, Peace and Security, Study submitted by the Secretary-General pursuant to Security Council resolution 1325 (2000)* (the impact of armed conflict on women and girls), United Nations publication, Sales No. E.03.IV.1 (2002), a summary of which was submitted in a report of the Secretary-General on women, peace and security to the Security Council (S/2002/1154).

[24] See A/HRC/4/34.

[25] See E/CN.4/2006/67/Add.1, para. 96.

[26] See S/2009/277.

control, and established a working group to monitor its implementation. The effectiveness of these initiatives will need to be monitored. All parties to conflict are reminded again that they must comply with their obligations under international law to protect civilians.

Combating impunity

22. In the area of combating impunity for sexual violence, it bears recalling that rape and other forms of sexual violence are serious violations of international humanitarian, human rights and criminal law, and, depending on the circumstances, may be qualified as war crimes, crimes against humanity or genocide. Hence, it is particularly important for States to strengthen their domestic capacity to hold all perpetrators, including members of State armed forces and the police, and non-State armed groups accountable for sexual crimes. To this end, weaknesses across formal and informal justice sectors must be addressed and greater efforts taken to ensure that amnesties and immunities exclude those who commit or commission sexual violence.

23. Weaknesses in the laws and procedures of many countries as well as in the administration of justice essentially allow perpetrators to escape punishment and deny victims the right to remedy. For example, in Côte d'Ivoire, the Penal Code does not contain a definition of rape or its elements, leaving room for inconsistent rulings and detrimental decisions. Rape charges can also be reclassified as attacks on modesty or "attentat a la pudeur", which is a less serious offence with lesser penalties. In the Sudan, the 1991 Criminal Act and its proposed amendments recognize the offence of rape but continue to link it to the substantive or evidentiary requirements of adultery or sodomy. The reference to adultery in the definition of rape exposes victims to the risk of prosecution for the crime of adultery. Further, in the Sudan's plural legal system, both common law and Shari'a courts have jurisdiction over these issues, with often diverging interpretations of the Criminal Act. In Iraq, not only does the Penal Code allow a perpetrator to escape accountability for rape or sexual assault if the offender "lawfully marries the victim", but victims may face criminal charges for engaging in illegal sex. Weaknesses in the legal framework go beyond questions of definition or jurisdiction. Other factors undermine legal recourse. In Nepal, for example, the statute of limitation for rape is 35 days. Furthermore, in countries such as Afghanistan, Côte d'Ivoire, the Democratic Republic of the Congo, Iraq, Kosovo, Liberia, Myanmar, Nepal, Sierra Leone, the Sudan and Timor-Leste, the effective administration of justice is hampered not only by a lack of capacity, but also by the fact that some justice officials do not give serious consideration to reports of sexual violence. Of the few cases that are reported, many are not effectively investigated and prosecuted. Further, women's access to justice is in several contexts compromised by the lack of enjoyment of economic and social rights, as, for example, when they cannot afford the cost of the medical reports that in many countries are required to file a charge of rape.

24. In the aforementioned areas, however, some encouraging developments have emerged. In July 2006, the National Assembly of the Democratic Republic of the Congo adopted new legislation criminalizing rape and other forms of sexual violence. In Burundi, the Senate recently adopted a new Penal Code that contains provisions that criminalize violence against women. Further, in Liberia, the Government has established women and children protection units in police stations,

a new sexual and gender-based crimes prosecution unit in the Ministry of Justice, and Criminal Court "E" with special competence to try sexual crimes. Similar family and child protection units have also been established by the Government of the Sudan in several States, with the support of UNICEF, including in the three Darfur States. In the Democratic Republic of the Congo, the Executive Secretariat of the Police Reform Committee is leading the establishment of sexual violence special units within PNC and is assisting to coordinate, inter alia, the training of those units. In the Sudan, the Government has taken positive steps to remove the requirement of "Form 8", which obliged women to report rape to the police/security before they were entitled to receive medical examination and treatment.

25. However, in the light of the significant improvements that are needed to achieve effective legal frameworks to combat impunity, I would urge States to undertake comprehensive legal and judicial reforms, in conformity with international standards, without delay with a view to bringing perpetrators of sexual violence to justice and to ensuring that victims are treated with dignity throughout the justice process, are protected and receive remedy. I would invite States to draw on important resources such as the *Model Codes for Post-Conflict Criminal Justice*, which were developed in collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Office on Drugs and Crimes (UNODC) to fill gaps in their criminal law and procedures and to request United Nations assistance in this regard. Further, I would encourage States parties to the Rome Statute of the International Criminal Court to enact legislation to implement their complementarity obligations.

26. Another area that must be addressed by States is the role of military justice with respect to sexual violence committed by military personnel. In accordance with human rights standards, the jurisdiction of military tribunals should be restricted solely to specifically military offences committed by military personnel, to the exclusion of human rights violations, which should come under the jurisdiction of ordinary criminal courts.[27] In countries where sexual crimes committed by military personnel fall under military jurisdiction, military tribunals have largely failed to carry out their duty to investigate and prosecute offenders. For example, in the Democratic Republic of the Congo, there appears to be a lack of will to investigate and prosecute high-level military and other officials who have allegedly committed sexual violence. On 7 March 2008, the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) informed the Government of the results of its investigation of five high-ranking FARDC officials who are suspected of perpetrating sexual crimes, yet to date no arrest warrants have been issued and two of the officers are still actively commanding troops in the east. In addition, former combatants who have allegedly perpetrated serious crimes, including sexual violence, have also been integrated into FARDC and retain command responsibility in military operations. At the same time, the Government has established regional follow-up committees in Kasai Occidental and Kasai Oriental Provinces, North and South Kivu Province, and Province Oriental, to investigate violations perpetrated by the armed forces, and ad hoc military courts for North Kivu to immediately prosecute abuses by FARDC. It is essential that these mechanisms be strengthened in particular to ensure compliance with human rights standards. Similarly, in

[27] See E/CN.4/2005/102/Add.1, Principle 29; see also A/HRC/4/25/Add.3, para. 4, and E/CN.4/2006/58, Principle 9.

Myanmar, although there has been documentation and identification of military personnel who have committed sexual violence, including relevant dates and battalion numbers, disciplinary or criminal action is yet to be taken against the alleged perpetrators.[28] In the light of this, States must ensure that sexual crimes, including those committed by military personnel, fall under the jurisdiction of civilian courts rather than military courts, and that such crimes are investigated and prosecuted in accordance with international due process and fair trial standards. Moreover, States must ensure that vetting processes exclude persons against whom there are credible allegations, and evidence of crimes, including sexual crimes; such persons should also be excluded from public institutions, including integrated armed forces.

27. Moreover, in countries such as Afghanistan, Burundi and Sierra Leone, as much as 80 per cent of the population have recourse to customary and traditional dispute resolution and community mediation mechanisms. These mechanisms should not deal with sexual violence cases owing to their serious nature, but do so in reality. As such, efforts must be made to harmonize these mechanisms with international human rights standards, as they are, unfortunately, contributing to a culture of impunity for sexual violence.[29] For example, cases are often resolved through amicable settlements, thereby undermining the criminal aspect of the offences in both the consideration and outcome of cases. Outcomes are frequently lenient on the perpetrator and result in a monetary or other benefit for the family, community or traditional leaders rather than remedy for the victim. Additionally, in many cases, when victims lodge complaints with the police, they face pressure from the family or community to drop the charges and often accept a settlement in the face of few options. The former situation is especially true when the penalty for rape is severe, for example, life imprisonment, or when the perpetrator is a family or community member upon whom the victim may be economically dependent. States must also engage community and traditional leaders in sensitizing communities on sexual violence to avoid marginalization and stigmatization of victims, to assist with their social reintegration, and to combat impunity for these crimes.

28. Amnesties for war crimes, genocide, crimes against humanity and serious human rights violations, whether in the context of peace negotiations and agreements, or in domestic constitutional or legal frameworks, undercut efforts to combat impunity, including for sexual crimes. Such amnesties may be inconsistent with States' obligations under treaty law and customary international law. For this reason, the United Nations, when mediating or facilitating peace processes, does not recognize amnesty for genocide, crimes against humanity, war crimes and other serious violations of human rights and international humanitarian law, including rape and other sexual violence crimes. Despite this, the 2007 Amnesty Ordinance in

[28] See A/HRC/10/19.

[29] The Human Rights Committee, in its General Comment No. 32, has stated that article 14 of the International Covenant on Civil and Political Rights (ICCPR) is relevant where a State, in its legal order, recognizes courts based on customary law, or religious courts, to carry out or entrusts them with judicial tasks. It must be ensured that such courts cannot hand down binding judgments recognized by the State unless the following requirements are met: proceedings before such courts are limited to minor civil and criminal matters, meet the basic requirements of fair trial and other relevant guarantees of the Covenant, and their judgments are validated by State courts in light of the guarantees set out in the Covenant and can be challenged by the parties concerned in a procedure meeting the requirements of article 14 of the Covenant.

Côte d'Ivoire fell short of explicitly excluding crimes against humanity and war crimes from amnesty. Moreover, in the Sudan, the Armed Forces Act of 2007 and the Police Act of 2008 stipulate procedural immunity for armed and police forces. The former grants immunity to military personnel, and for offences committed in the course of their duties. They cannot be prosecuted by military or civilian courts unless immunity is waived by the President. It is therefore important for States to ensure that amnesties and immunities do not allow perpetrators of sexual violence to escape accountability.

29. In the area of remedy and reparations, victims of gross violations of international human rights law and serious violations of international humanitarian law have the right to remedies that include equal and effective access to justice and reparation for harm suffered. In view of extensive sexual violence committed by State agents, I recall the obligation of States to "provide reparation to victims for acts or omissions which can be attributed to the State".[30] Reparation can take the form of restitution, compensation, rehabilitation, satisfaction including apologies and measures to establish the truth, and guarantees of non-repetition. This area deserves special focus owing to very weak implementation. For example, in Equateur Province of the Democratic Republic of the Congo, 119 women were raped in the village of Songo Mboyo on 21 December 2003. In response to a special investigative mission conducted by MONUC, a military tribunal in Mbandaka found seven FARDC officers guilty of crimes against humanity. That was the first time that FARDC military personnel were held accountable for rape. Unfortunately, however, it must be noted that reparations allocated to the victims by the military tribunal have never been paid, in spite of the fact that the State had been condemned in solidum with the perpetrators. While considerable resources have been provided by the international community to help Congolese actors implement the 2006 Law on Sexual Violence, there have been serious problems with having sentences executed in practice, in particular the payment of damages and interests.

Assistance to victims

30. In the area of assistance to victims, reports from Afghanistan, Burundi, Iraq, Liberia, Nepal, Sierra Leone and Timor-Leste indicate that access to key medical, psychosocial and socio-economic reintegration services is inadequate, especially in rural areas. Further, in Afghanistan, Iraq, Nepal and the Sudan, international and national non-governmental service providers working on behalf of victims face many risks in carrying our their work. It is essential that States strengthen national responses and services to victims of sexual violence. Furthermore, States must facilitate and support the work of service providers that deserve much recognition for assisting and protecting victims, sometimes in inaccessible or remote areas where they are very often the only ones present. I am particularly concerned that since September 2008 in the Sudan, many non-governmental organizations have been forced to close their operations, affecting access to life-saving services. As I have stated on previous occasions, under international humanitarian law, parties to conflict must protect and meet the basic needs of persons within their control. In situations where they are unwilling or unable to do so, they must allow and facilitate the work of intergovernmental and non-governmental organizations in providing critical life-saving humanitarian assistance.

[30] General Assembly resolution 60/147.

V. United Nations efforts to prevent and respond to sexual violence

31. To assist States to prevent sexual violence, protect individuals from such violence, punish perpetrators and provide remedy to victims, the United Nations system is taking actions across its main work areas of peace and security, human rights, humanitarian affairs and development. Actions are diverse and include, inter alia, planning support and strategic advice, awareness-raising and advocacy, capacity development and training, legal and judicial reforms, institutional reforms, the provision of services to victims and establishment of victim support centres, legal assistance, monitoring and protection, and support to regional peacekeeping forces.

32. As part of these efforts, I am exercising my own good offices to advocate for an end to sexual violence, including through my global campaign "UNiTE to end violence against women". Further, I am committed to strengthening coordination in the United Nations system, across the areas of peace and security, humanitarian affairs and development, to ensure that the United Nations "delivers as one" in preventing and responding to sexual violence. To this end, I am engaging with my Special Envoys and Representatives and through the Emergency Relief Coordinator, resident and humanitarian coordinators to give greater attention to the issue of sexual violence, including in dialogue with parties to conflict. In addition, with the introduction of integrated strategic frameworks to improve the formulation of strategic objectives between peacekeeping missions and United Nations country teams, I am committed to ensuring that joint priorities on preventing and responding to sexual violence are established.

33. Multisectoral responses to sexual violence in the area of humanitarian assistance also require coordinated action among, at a minimum, protection, health and social services actors, legal, human rights, and security sectors and affected communities. Humanitarian efforts on sexual and gender-based violence in, for example, the Democratic Republic of the Congo and the Sudan, are coordinated under the cluster approach on a cross-sectoral basis, with different clusters being accountable for responding to sexual violence, in particular the protection and health clusters. In the area of protection, UNHCR serves as the global lead with the United Nations Population Fund (UNFPA) and the United Nations Children's Fund (UNICEF) co-leading the gender-based violence area of responsibility. In many humanitarian settings, UNFPA and UNICEF coordinate field-level multisectoral gender-based violence coordination groups under the protection cluster. The advisers deployed through the inter-agency Protection and Gender Capacity Standby Roster Projects strengthen the capacity of clusters. In addition, United Nations Action against Sexual Violence in Conflict was endorsed by my Policy Committee in 2007 as a United Nations system-wide initiative to guide advocacy, knowledge building, resource mobilization, and joint programming.[31] It provides catalytic support to the United Nations system in developing and implementing comprehensive strategies to address sexual violence in conflict. I encourage my Special Representatives and resident and humanitarian coordinators to avail of the support that UN Action can provide, and UN Action to continue to implement its strategic framework for the period 2009-2010.

[31] Policy Committee Decision No. 2007/31, Violence against Women, 15 June 2007.

34. The United Nations must lead by example, and increase the participation of women in peacekeeping. This serves both as a model of women's empowerment to communities and societies rebuilding after conflict, and renders protection and support to women and girl victims of sexual violence more effective. As concerns the former, I have noted on many occasions that the operational deployment of female United Nations police officers to the United Nations Mission in Liberia (UNMIL) has positively contributed to a three-fold increase in the number of applications from women to join the Liberian National Police. As concerns the latter, the almost 13 per cent representation of women in the police component of the African Union-United Nations Hybrid Operation in Darfur (UNAMID) has resulted in corresponding clear commitments to address sexual violence and more effective responses by the mission. I urge Member States to ensure a sizeable representation of female military and police personnel in deployments to peacekeeping missions and to provide them with adequate training in order to carry out their responsibilities, and encourage emerging troop- and police-contributing countries to consider deploying female military and police peacekeeping personnel. Moreover, in the lead up to the tenth anniversary since the adoption of resolution 1325 (2000), I invite the international community to reaffirm its commitments and address the most urgent challenges and obstacles to mainstreaming a gender perspective into peace and security and to ensure the complementary implementation of resolutions 1325 (2000) and 1820 (2008).

35. Leading by example also requires rigorous implementation of the United Nations zero tolerance policy on protection from sexual exploitation and abuse by staff and related personnel.[32] In this regard, important steps have been taken to implement the 2003 Secretary-General's Bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13). These include the allocation of resources by the General Assembly to support the establishment of conduct and discipline teams in 20 peacekeeping and political missions, a resolution on strengthening criminal accountability of United Nations officials and experts on missions (General Assembly resolution 62/63), and a revised model memorandum of understanding (A/61/19, Part III) between the United Nations and troop-contributing countries, as well as a victim assistance strategy (see General Assembly resolution 62/214). I stress that all United Nations entities must fully implement the Secretary-General's Bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13), including through the establishment of and participation in inter-agency, in-country networks. Furthermore, troop- and police-contributing countries must take appropriate disciplinary actions in all cases of sexual exploitation or abuse by peacekeepers and keep the United Nations informed of progress in this regard.

36. In the area of early recovery and peacebuilding, the Peacebuilding Commission has been playing a key role in supporting activities to prevent sexual violence. In this regard, the Strategic Framework for Peacebuilding in the Central African Republic was formally adopted on 6 May 2009, and contains important commitments to address the widespread and systematic use of sexual violence occurring in the armed conflict and crimes continuing in its aftermath. In addition, the Peacebuilding Fund is also supporting projects in Burundi, Liberia and Sierra Leone to prevent and respond to sexual and gender-based violence. I encourage the

[32] See General Assembly resolution 59/300.

Peacebuilding Commission to build knowledge about how sexual violence impedes early recovery, and ensure that adequate financing is made available for implementing coherent, multisectoral responses to sexual violence, including projects resulting from joint United Nations-Government comprehensive strategies to combat sexual violence. At the same time, the United Nations Development Programme (UNDP) and its partners are continuing to support programmes in the area of the rule of law, women's access to justice, and socio-economic opportunities for survivors and to integrate attention to sexual violence into national capacity development.

37. Further, efforts are under way to ensure that peace negotiations and outcomes contribute to preventing and responding to sexual violence. Of note is a significant inter-agency undertaking, involving the Department of Political Affairs, the Department of Peacekeeping Operations, the Office for the Coordination of Humanitarian Affairs, UNDP and the United Nations Development Fund for Women (UNIFEM), on behalf of UN Action, and in collaboration with the Centre for Humanitarian Dialogue, to develop additional guidance for United Nations and other mediators to ensure that adequate language and mechanisms related to command responsibility, vetting of armed and security forces, and exclusion of sexual violence from amnesties are incorporated into future peace agreements. Building on this initiative, the Department of Political Affairs will develop guidance for mediators on ways to effectively address issues related to sexual violence in armed conflict in the drafting of peace agreements.

38. To achieve more effective protection of civilians, a series of actions are under way to provide guidance to peacekeeping missions. This includes an independent study commissioned by the Department of Peacekeeping Operations and the Office for the Coordination of Humanitarian Affairs, whose findings will inform the development of overarching guidance on the protection of civilian mandates. The Department of Peacekeeping Operations is developing gender guidelines for military personnel in peacekeeping operations to facilitate implementation of resolutions 1325 (2000) and 1820 (2008), and operational guidance to assist civilian, military and police components of peacekeeping missions to effectively implement resolution 1820 (2008). The Department of Peacekeeping Operations will also ensure that guidance for military and police personnel on addressing sexual violence is appropriately included in pre-deployment and induction training standards and delivered through support to troop- and police-contributing countries. Further, the Office for the Coordination of Humanitarian Affairs is building on two recent conferences on the themes "Use of Sexual Violence in Conflict" (see the Office for the Coordination of Humanitarian Affairs meeting report, 26 June 2008) and "Gender-based Violence in Recent Intra-State Conflicts" (see Harvard Humanitarian Initiative, September 2008) in an effort to ascertain potential interventions that could influence non-State armed groups to refrain from committing sexual violence during conflict and displacement. The Department of Peacekeeping Operations is also working with UNIFEM and UN Action to finalize the *Analytical Inventory of Responses by Peacekeeping Personnel to War-Related Violence against Women*, which catalogues existing good practice by military personnel to prevent, deter and respond to conflict-related sexual violence.

39. Measures by peacekeeping operations to ensure greater protection of populations at risk include the adoption of Mission directives that aim to elaborate the role of peacekeeping missions in protecting civilians, including from sexual

violence, during operations. A comprehensive mission directive was issued by UNAMID in February 2009 for military and police components, identifying, inter alia, measures that the military and police should take to provide a secure environment for humanitarian assistance, as well as the most frequent grave violations against civilians in Darfur and the responses that are expected of the military and police. Similar directives have been issued by MONUC and the United Nations Mission in the Sudan (UNMIS). In other peacekeeping contexts, my Special Representatives and heads of military and police components will review mission directives for civilian, military and police components of peacekeeping operations, to ensure that prevention and response to sexual violence are duly reflected in the implementation of peacekeeping mandates.

40. Good practices are also emerging in making interventions more strategic. In Liberia, the United Nations system joined forces with national partners in the last five years to develop coordinated policies, programmes and strategies, culminating in a joint Government-United Nations programme on sexual gender-based violence. More recently, MONUC and the United Nations country team, with the assistance of a senior adviser on sexual violence, financed by UN Action, developed a comprehensive strategy to combat sexual violence in the Democratic Republic of the Congo, which was endorsed by the Government of the Democratic Republic of the Congo on 1 April 2009. It holistically addresses the issue of sexual violence, structured around four pillars: (a) combating impunity; (b) prevention and protection; (c) security sector reform; and (d) multisectoral response for survivors. Building on these examples, my Special Representatives are encouraged to work with United Nations country teams to initiate dialogue with Governments to develop, where they do not exist, joint Government-United Nations comprehensive strategies to combat sexual violence, in consultation with all relevant stakeholders, and to regularly provide updates on this in their standard reporting to Headquarters. The Emergency Relief Coordinator is to request the same of humanitarian coordinators in non-peacekeeping contexts.

41. Further measures include the deployment of joint patrols to enhance the protection of civilians, including from sexual violence. For example, in February 2008, MONUC deployed joint protection teams to seven locations in North Kivu and two in South Kivu. The joint protection teams, supported by civilian components of MONUC, have cooperated with local authorities and communities, and implemented measures such as voluntary curfews and night patrols in high-risk areas. Combined UNAMID military and police patrols have also been established within and outside IDP camps. United Nations agencies, UNAMID and international NGOs are contributing to protection by carrying out awareness-raising and training on sexual violence for Government staff, and IDP women and camp leaders.

42. In several peacekeeping missions, United Nations police components, through mentoring and technical support to State police bodies, are playing an important role in preventing and responding to sexual violence. In at least seven missions, the United Nations police has assisted in creating national specialized police units that receive reports of cases of sexual violence. For example, in Timor-Leste, United Nations police helped to establish Vulnerable Persons' Units, staffed by women police officers, across the Timor-Leste National Police districts. Other types of support include measures by MONUC United Nations police to reinforce the operational support to the Congolese National Police (PNC) territorial units, through joint patrolling along priority axes with the MONUC formed police units. Further,

MONUC is developing a concept of operation, with the assistance of the Standing Police Capacity, to guide and support units of the *Police Speciale pour le Protection de L'Enfance et de La Femme* within PNC. In eastern Chad, the United Nations Mission in the Central African Republic and Chad (MINURCAT) is currently working with the United Nations *Police de Proximité* Unit to establish women and children protection units within the United Nations police/Détachement intégré de sécurité Commissariats.

43. In the area of disarmament, demobilization and reintegration, the Inter-Agency Working Group on disarmament, demobilization and reintegration, co-chaired by the Department of Peacekeeping Operations and UNDP, launched the *Integrated Disarmament, Demobilization and Reintegration Standards* in December 2006. This document provides guidance on gender-sensitive approaches to disarmament, demobilization and reintegration, including the provision of security for female ex-combatants, and the screening of women associated with fighting forces and their dependents to identify and address their experiences of sexual violence during conflict. Additional guidance is being developed by the Inter-Agency Working Group to operationalize the existing framework. There is a strong attempt to address HIV/AIDS and sexual violence in disarmament, demobilization and reintegration programming by UNDP, UNICEF, UNFPA, UNIFEM and the Joint United Nations Programme on HIV/AIDS (UNAIDS) so as to provide more comprehensive services for demobilized individuals, particularly women and children associated with fighting forces.

44. To strengthen the rule of law in conflict-affected countries, many peacekeeping operations are mandated to assist national authorities in reinforcing their law enforcement, justice and corrections systems. More emphasis will be placed on building national capacities to prevent and respond to sexual violence while implementing measures to professionalize security institutions in peacekeeping contexts. In addition, human rights components of 15 peacekeeping operations carry out monitoring, public reporting, the provision of technical assistance, and the development of long-term national capacities to ensure that human rights are protected by the rule of law. Further, since 2008 UNDP has been implementing its Global Programme on Strengthening the Rule of Law in Conflict and Post-Conflict Situations, which targets 20 conflict and post-conflict countries with support in developing comprehensive and integrated rule of law programmes. A major component of these programmes includes access to justice and security for women and girls, especially victims of sexual violence. To further strengthen United Nations responses, under the auspices of the Rule of Law Coordination and Resource Group, I request the Department of Peacekeeping Operations, OHCHR, the Office of Legal Affairs and UNDP, which have been designated lead entities for the rule of law in conflict and post-conflict situations to develop, with other key actors, a comprehensive strategy to combat impunity for sexual violence.[33]

45. However, as I have outlined earlier in this report, sexual violence in ongoing conflict situations is of grave proportions, with State and non-State actors alike committing violations with impunity, with a corresponding failure to comply with their obligations under international law to refrain from committing sexual violence and to protect civilians from attack. Much greater efforts are needed to actively and

[33] Decisions of the Secretary-General, Policy Committee meetings of 7 November 2006 and 15 June 2007.

consistently identify, monitor, investigate and report on perpetrators of sexual violence. To date, the most comprehensive and evidence-based information on the use of sexual violence in armed conflict situations, as well as on the perpetrators of such violence, come from the ad hoc criminal tribunals (ICTY and ICTR), hybrid (e.g., SCSL) and international courts, transitional justice mechanisms, commissions of inquiries and special investigative missions. Thus, to ensure greater accountability for sexual violence, the full range of international, hybrid and national justice mechanisms, as well as transitional justice mechanisms, commissions of inquiries and special investigative missions should be employed. Accordingly, I urge the Council to deploy as an immediate measure a commission of inquiry, containing experts specialized in investigating sexual violence crimes, and supported by appropriate investigative capabilities and resources, to ongoing conflict areas in the Democratic Republic of the Congo, Chad and the Sudan to investigate violations of international humanitarian, human rights and criminal law with regard to sexual violence; to identify all those responsible for perpetrating sexual violence and to report comprehensively on acts or omissions by States and other parties to armed conflict; and to recommend to the Council the most effective mechanisms, international and national, to ensure accountability.[34]

46. I am pleased to note the intentions of my Special Representative for Children and Armed Conflict and UNICEF to strengthen data collection and reporting on sexual violence within the framework of resolution 1612 (2005). This effort is intended to provide a better platform for monitoring and reporting of grave child rights violations, identifying perpetrators in armed forces and armed groups, and guiding programmatic response. As noted in my last report to the Council on children and armed conflict (S/2009/158), I strongly support the close cooperation that has been initiated to ensure that resolutions 1612 (2005) and 1820 (2008) are implemented in a mutually reinforcing manner, both at headquarters and country-level.

47. To address the gaps in the area of ensuring that victims of sexual violence can exercise their right to reparations, work is being done in the Democratic Republic of the Congo to establish, on a pilot basis, a guarantee mechanism to ensure that victims of sexual violence who successfully obtain convictions against one or more perpetrators, as well as an award of damages and interest, receive at least a portion of those damages and interest. This guarantee mechanism would help to restore a degree of trust in the formal justice system in terms of the implementation of its judicial decisions, particularly as the State is currently not honouring court awards of damages and interest against it when its agents, primarily in the police and the military, are convicted in cases of sexual violence. In addition to the problems involved in cases where the perpetrator is known, the lack of reparations for victims where the perpetrator is not known is of equal concern. In an effort to broaden access for all victims of sexual violence to reparations, OHCHR and the joint OHCHR/MONUC Human Rights Office in the Democratic Republic of the Congo has been engaging in a consultation on the main elements of a reparations project. I

[34] The terms of reference should be designed to be complementary to ongoing but still modest international initiatives to map violations and secure accountability, such as the ongoing OHCHR mapping of the most serious violations of international humanitarian and human rights law which were committed in the Democratic Republic of the Congo between 1993 and 2003. The Commission of Inquiry on Darfur established by the Council in 2004, and supported by the Office of the United Nations High Commissioner for Human Rights, may serve as a model.

welcome these efforts and believe that such initiatives should be further strengthened and enjoy the full support of all partners at country-level.

48. A holistic, coordinated response to sexual violence is particularly important as it impacts every aspect of a victim's life. In addition to the severe psychosocial impact, sexual violence leaves some survivors with long-term physical and mental health problems, including traumatic fistulae and other physical wounds, as well as unwanted pregnancies and sexually transmitted infections, including HIV/AIDS. Survivors of sexual violence face enormous barriers in access to services and in securing justice through the courts or community-based mechanisms. At the family and community level, survivors usually suffer in silence, fearing stigma, rejection and ostracism if their ordeal is made public.

49. With regard to the provision of assistance to survivors of sexual violence, United Nations entities are following a multisectoral approach in line with the Inter-agency Standing Committee Guidelines for Gender-Based Violence Interventions in Humanitarian Settings. This approach has four main pillars of assistance: (a) medical care to include mental health care, treatment of injuries, prevention and treatment of sexually transmitted infections, prevention of HIV/AIDS, prevention of unintended pregnancies and unsafe abortions, medico-legal documentation and forensic evidence gathering if requested, and referral to other services; (b) psychosocial support, including individual and group counselling, family mediation, and support related to children born of rape; (c) legal assistance to ensure that victims know their rights and have support to bring forward a legal claim should they choose to do so; and (d) socio-economic reintegration support, in the form of vocational skills training, small income-generating activities and the establishment of forums for survivors to come together to share their experiences and re-establish social networks. This pillar approach is operational in most crisis-affected countries, including where there is no United Nations peacekeeping mission. As an example of the scale of assistance efforts under way in such contexts, UNICEF in the Democratic Republic of the Congo provided comprehensive support to 20,698 survivors of sexual violence in 2008, of whom over 31 per cent were children; since 2005, UNICEF has directly assisted 78,000 survivors in the Democratic Republic of the Congo. Many victims were reached in remote areas in the Kivus with mobile clinics and outreach efforts. Similarly, in Chad, the UNFPA-led sexual gender-based violence sub-clusters in N'Djamena and Abéché have carried out outreach and awareness-raising on sexual violence at the community level, reaching over 40,000 men and women.

50. Since women and girls face many risks during the collection of firewood for cooking purposes, particularly in displacement contexts, beginning in 2005, UNHCR and its partners provided refugees in the Iridimi refugee camp in Chad with fuel-efficient stoves, including solar cookers. The project was evaluated in 2007 and found to have reduced the need to leave the camp in search of firewood, thus improving the security of women and girls. By the end of 2007, all 12 camps in Chad were provided with improved cooking options. The Inter-Agency Standing Committee Task Force on Safe Access to Firewood and Alternative Energy in Humanitarian Settings has recently issued guidance containing contextual strategic options for addressing risks faced by internally displaced and refugee women when they collect firewood for energy supply.

51. I remain concerned, however, by the insufficient level of funding available for critical humanitarian programmes, and urgently call on all States to review resource strategies to ensure that this area of work is more fully supported. In this regard, there is an urgent need for adequate and identifiable funding for prevention and response to sexual violence. I will ensure that the United Nations-managed funds pilot a system pioneered by UNDP, UNFPA, UNICEF and the Office for the Coordination of Humanitarian Affairs to allow decision makers to track gender-related allocations.

VI. Improving data collection and reporting on sexual violence

52. In response to the request in resolution 1820 (2008) for information on my plans to facilitate the collection of timely, objective, accurate and reliable information on the use of sexual violence in situations of armed conflict, I have proposed to the Council that, as an immediate measure, it deploy an expert commission of inquiry to ongoing conflict areas to investigate and document violations. In addition, as a medium-term strategy, I intend to ensure that guidance and support is provided to the country-level to improve data collection and reporting both by the various components of peacekeeping missions and United Nations country teams.

53. To this end, my Special Representatives will continue the system of senior-level Mission focal point indicated at the beginning of this report to ensure more coherent, comprehensive and regular reporting on sexual violence, including on the perpetrators of this violence and actions taken by parties to conflict to comply with their obligations under international law. Ideally, the senior-level Mission focal point should be the Deputy Special Representative of the Secretary-General, the humanitarian coordinator or the resident coordinator or should otherwise work in cooperation with the resident coordinator or humanitarian coordinator. The senior-level focal point will be expected to: (a) expand efforts within missions to monitor, investigate, document and report on sexual violence; (b) coordinate with the United Nations country team to review current data collection methods and databases in the United Nations, with a view to streamlining systems to the extent possible; and (c) report back from the country-level to United Nations Headquarters.

54. It is clear that we need more and better data to enhance our understanding of the various forms of sexual violence in conflict and its aftermath, including its magnitude, nature and risk factors; the profile and the motivation of perpetrators; the consequences of this violence; and the effectiveness of programmes and prevention strategies. In IDP and refugee settings, data also needs to be more systematically collected and analysed. To study these issues, multiple approaches and methods are needed, including both quantitative and qualitative data collection. Under the auspices of UN Action, efforts are under way to, inter alia, develop a standardized survey instrument and a research agenda on sexual violence. United Nations agencies and organizations providing services to survivors should strive to collect data in a more standardized and comparable way that could eventually allow safe data aggregation and analysis. In this regard, the efforts of UNFPA, UNHCR and the International Rescue Committee to develop and test a sexual and gender-based violence information management system that enables service providers to safely collect, store, analyse and share reported cases of sexual and gender-based violence need to be supported and further disseminated for wider use. I would

encourage donors, researchers and others to support sound and ethical research and data collection efforts in post-conflict settings that can inform action and improve our ability to prevent and better respond to this problem.

55. In the context of these efforts, it is essential that all United Nations actors ensure full respect for the World Health Organization's ethical and safety standards for researching, measuring and collecting data on sexual violence.[35] Where victims are to be interviewed, including as part of a judicial process, it is essential that there be full disclosure on the purpose of the interview as well as clear indication in the event that services cannot be provided. There must be consent to the interview and effort to avoid retraumatization as well as to provide referrals.

VII. Conclusions and recommended actions

56. In bringing together available data, no matter how incomplete, the present report shows a disturbing picture of the use of sexual violence against civilians in armed conflicts and their aftermath. With the adoption of resolution 1820 (2008), the Security Council led the way in giving this issue the comprehensive and global attention it deserves. It is now up to all of us to rise to the challenge. Member States, the United Nations system and civil society all have a role to play in moving towards a comprehensive understanding of the problem and the adoption of effective multisectoral response strategies. The continued leadership of the Security Council will be critical to significant progress on combating sexual violence and, to this end, I urge the Council to:

(a) Call for strict compliance by parties to armed conflict with international criminal, humanitarian, human rights and refugee law;

(b) Apprise itself of critical issues relating to sexual violence in the context of its country missions, and reinforce its dialogue with all parties to armed conflict on their obligations under international law;

(c) Ensure that resolutions to establish or renew mandates, or to impose enforcement measures under Chapter VII of the Charter of the United Nations, contain provisions, as appropriate, on the prevention of, and response to, sexual violence, with corresponding reporting requirements to the Council;

(d) Ensure that resolutions consistently mandate human rights or serious crimes components of peacekeeping operations to undertake concerted and more detailed monitoring, investigation, documentation and reporting on sexual violence;

(e) Ensure that sanctions Committees are mandated to address sexual violence, and receive information and lists of names and parties who perpetrate sexual violence. In that context, the Council should also ensure enhanced communication with other subsidiary bodies, such as the Working Group on Children and Armed Conflict, including by forwarding pertinent information on rape and other grave sexual violence committed against children in situations of armed conflict;

[35] *WHO Ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies* (Geneva: World Health Organization, 2007).

(f) Continue to support the work of its Working Group on Children and Armed Conflict in receiving data on sexual violence against children in armed conflict, and continue to consider the inclusion of parties to conflict that commit rape and other grave sexual violence against children in all situations of concern in the annexes of my annual report on children and armed conflict;

(g) Ensure that the Security Council Expert Group on the Protection of Civilians addresses sexual violence, as appropriate;

(h) Issue a standing invitation to Special Representatives of the Secretary-General, the Emergency Relief Coordinator, the High Commissioner for Human Rights, the Special Rapporteur on violence against women, its causes and consequences, and the Chairperson(s) of UN Action to provide additional briefings and documentation on sexual violence;

(i) Establish a commission of inquiry, supported by the Office of the United Nations High Commissioner for Human Rights, to investigate and report on violations of international humanitarian and human rights law, with a dedicated focus on sexual violence in ongoing conflict situations in Chad, the Democratic Republic of the Congo and the Sudan, and to recommend to the Security Council the most effective mechanisms for ensuring accountability. The Council should consider establishing such commissions in other conflicts where sexual violence occurs;

(j) Ensure that all data on sexual violence is reviewed by an existing working group(s) of the Council so as to ensure that, at a minimum, recommendations are made, where relevant, in mandate creation or renewal processes;

(k) Request a follow-up report to include a proposal for an appropriate mechanism or procedure of the Security Council to, inter alia, consider and act on information of measures taken by parties to armed conflict to comply with their obligations under international law, and on the perpetrators of sexual violence. Given the imperative of preventing and responding to sexual violence, I am prepared to submit an annual report on the implementation of resolution 1820 (2008);

(l) Consider giving equal attention to sexual violence in all situations of concern where sexual violence is perpetrated against civilians.

57. On the part of the United Nations system organizations, I am committed to ensuring that the Deputy Secretary-General, my senior officials, and the heads of relevant agencies, funds and programmes take on a greater global advocacy role on the issue of sexual violence in conflict and post-conflict situations, with support from the UN Action network. In addition, I am considering the advisability of the appointment of a senior person with responsibility to attend to the prevention and response to sexual violence across the United Nations system.

58. I am greatly encouraged by the engagement of all stakeholders in the United Nations system, including peacekeeping operations, political missions and United Nations country teams, as well as external partners who contributed to the present report. We must now build on and elaborate the conceptual and operational foundation laid out in this report and strengthen our collective interventions. Most significantly, the report elaborates key challenges which remain and need to be addressed with urgency if we are to make progress in combating sexual violence. It

is my strong belief that when it comes to sexual violence, we cannot expect peace without justice, reparation without recognition, and sustainable development without the full empowerment of those who have suffered sexual violence or are at risk.